



Paper 14

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In re Application of  
Takeshi Wada  
Application No. 09/419,793  
Filed: October 18, 1999  
Attorney Docket Number: P185-9025

OFFICE OF PETITIONS  
ON PETITION

This is a decision on the request for reconsideration filed April 21, 2004, which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on July 11, 2002, after the applicant failed to timely file a proper reply to the non-Final Office Action mailed April 10, 2002. A Notice of Abandonment was mailed January 13, 2003.

Petitioner asserts that the non-Final Office Action was never received.

The file record discloses that a change of address for all applications associated with customer number 04372 was filed sometime before May 22, 2001 and that in response, an error report was generated by the USPTO and communicated to the petitioners by way of email. A twenty-seven (27) page excel spreadsheet was submitted by the petitioner with the serial numbers of all the applications for which addresses should be changed corresponding with customer number 04372. Further the record reveals that petitioners responded to the USPTO with the requested information regarding the address change, by email, on May 31, 2001.

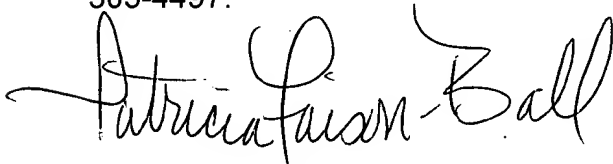
Additionally, petitioners have provided copies from their docketing system, a statement that a search of their docket records wherein receipt of the non-Final Office Action mailed April 10, 2002 would have been filed, had it been received, in an effort to show that the Notice mailed April 10, 2002 was not received.

In that a request to change the address for the above referenced application was not properly heeded and the non-Final Office Action mailed April 10, 2002 was mailed to an

incorrect address, and in that a statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the non-Final Office Action, was mailed April 10, 2002, it is apparent that the non-Final Office Action was not received. The evidence submitted corroborates non-receipt of the non-Final Office Action.

In view of the facts set forth in the petition, it is concluded that the non-Final Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee is due and thus, the petition fee in the amount of \$130.00, paid with the petition filed February 21, 2003, will be credited to deposit account no. 01-2300.

The file is being forwarded to Technology Center 2652 for the remailing of the non-Final Office Action originally mailed on April 10, 2002. Telephone inquiries concerning the remailing of the Notices should be referred to the Technology Center. All other inquiries regarding this decision may be directed to the undersigned Petitions Attorney at (703) 305-4497.

A handwritten signature in cursive script, reading "Patricia Faison-Ball". The signature is written in dark ink and is positioned above the printed name and title.

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions